

REMARKS

This Amendment is filed in response to the Official Action mailed November 30, 2006. In this Amendment, claim 33 is amended, claims 58-61 are canceled and claims 34, 47, 51-53 are unchanged. Following entry of this amendment, claims 33, 34, 47 and 51-53 shall be pending.

I. ELECTION/RESTRICTION

In the Office Action, claim 58-61 were withdrawn from consideration on grounds that they are distinct from the elected invention. Applicant does not concede that this withdrawal is proper but to expedite prosecution Applicant hereby cancels claims 58-61 without prejudice or disclaimer. Accordingly, the assertion by the Examiner that these claims are distinct from the elected invention is now moot.

II. REJECTIONS UNDER 35 U.S.C. SECTION 103

Claims 33, 47 and 51-53 are rejected under 35 U.S.C. Section 103(a) as being obvious over the combination of U.S. Patent No. 5,911,734 (*Tsugita et al.*) and U.S. Patent No. 5,167,239 (*Cohen et al.*). For at least the reasons set forth below, it is submitted that these prior art rejections should be withdrawn and the pending claims allowed.

Turning to independent claim 33, this claim has been amended to eliminate an unnecessary element related to the guidewire recitation of the claim. In addition, claim 33 has been amended to recite that the resilient members of the embolus removal apparatus are wrapped around said inner tube in a helical manner when in said collapsed configuration. Support for the latter of these two amendments may be found at least at Figures 19A and 19B and paragraphs [0186] through [0192] of the present application (published version).

In this regard, Applicant remains of the view that the Examiner improperly combines *Cohen et al.* with *Tsugita et al.* in the present rejection. *Tsugita et al.* itself is deficient and, furthermore, one of ordinary skill in the art would not look to incorporate

the guidewire teachings of *Cohen et al.* into *Tsugita et al.* given the purpose and function of the *Tsugita et al.* device and the purpose and function of the *Cohen et al.* device.

Nonetheless, Applicant further distances the invention of claim 33 from the *Tsugita et al.* and *Cohen et al.* combination by reciting that the resilient members of the embolus removal apparatus are wrapped around said inner tube in a helical manner when in said collapsed configuration. Neither *Tsugita et al.* nor *Cohen et al.* disclose or suggest such an embolus removal apparatus. Accordingly, for this reason too these references fail to provide a proper basis to reject the claims. Accordingly, the rejection should be withdrawn and an indication of the allowability of claim 33 should be indicated.

As to claims 34, 47 and 51-53, these claims depend from independent claim 33 and are allowable for at least the reasons set forth above. However these claims further define and describe the present invention and thus are separately patentable over the prior art.

III. ALLOWABLE SUBJECT MATTER

The Examiner indicated the allowability of claim 34 if rewritten in independent form. For the reasons stated above, the Applicant declines to rewrite claim 34 in this a manner at the present time. It is submitted that claims 33, 34 and 51-53 are allowable on their own merits.

CONCLUSION

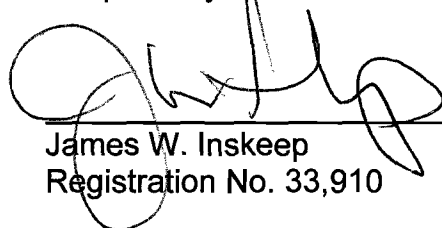
In view of the foregoing, it is submitted that pending claims 33-34, 47 and 51-53 are now in condition for allowance. Hence an indication of allowability is hereby requested.

If for any reason direct communication with Applicants' attorney would serve to advance prosecution of this case to finality, the Examiner is cordially urged to call the undersigned attorney at the below listed telephone number.

The Commissioner is authorized to charge any additional fee which may be required in connection with this Amendment to deposit account No. 50-2809.

Respectfully submitted,

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